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Human Rights Committee
Eighty-third session

Summary record of the 2264th meeting
Held at Headquarters, New York, on Monday, 21 March 2005, at 10 a.m.

Chairperson: Ms. Chanet

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05-27744 (E)

The meeting was called to order at 10.10 a.m.

Meeting with the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women

1. **Ms. Mayanja** (Special Adviser to the Secretary-General on Gender Issues and Advancement of Women) said that the major focus of her work to date had been the recently concluded forty-ninth session of the Commission on the Status of Women, which had adopted a Declaration on 4 March 2005 reaffirming the 1995 Beijing Declaration and Platform for Action and the outcome document of the twenty-third special session of the General Assembly and pledging to take action to further accelerate their implementation. Member States had recognized that implementation of the Beijing Declaration and Platform for Action and the fulfilment of the Convention on the Elimination of All Forms of Discrimination against Women were mutually reinforcing in achieving gender equality and the empowerment of women.

2. She reviewed recent developments in the work of the Committee on the Elimination of All Forms of Discrimination against Women, including its work under articles 2 and 8 of the Optional Protocol to the Convention. The Committee had also initiated work on a general recommendation on article 2 of the Convention and on the general obligations of States parties. The general recommendation would be important in further clarifying and elucidating the scope of women's right to equality and would build on the Committee's general recommendation 25.

3. One of the biggest challenges the Committee faced was handling its workload. The reports of some 50 States parties currently awaited consideration and at the current average rate of 16 reports a year, the waiting period, once a report had been submitted, was more than three years. The Committee hoped that the forthcoming session of the General Assembly would grant its request for an eventual extension of its meeting time to three annual sessions. It would take up the matter again in July, taking into account the situation of other treaty bodies.

4. The Committee had started using a country task force for consideration of some reports and would be looking especially at the experience of the Human Rights Committee as it further developed that approach. For the first time, it had invited two States parties to submit long-overdue reports within a specific time frame, indicating that it would consider the implementation of the Convention in the absence of a report. The Committee had also given serious attention to the proposals for harmonized guidelines on reporting and for a common core document and treaty-specific reports, in follow-up to the recommendation of the sixteenth meeting of Chairpersons of treaty bodies and third inter-committee meeting. While the reform process offered opportunities, the specific nature of discrimination against women continued to require special attention.

5. The Division for the Advancement of Women continued to provide technical assistance at the request of States parties in collaboration with its partners in the United Nations. For instance, the Division had recently cooperated with the Office of the United Nations High Commissioner for Human Rights to organize a round-table of national human rights institutions and the national machineries for the advancement of women in November 2004, which had brought together representatives from 14 countries to discuss strategies for strengthening the linkages between their respective areas of work and promoting a human rights-based approach to gender equality. The Division also had responsibility for preparing the Secretary-General's in-depth study on all forms of violence against women which would, inter alia, provide a statistical overview of the prevalence of all forms of discrimination against women, give best practices examples in areas ranging from legislation to effective remedies and endeavour to synthesize and consolidate the significant body of analytical and practical work on that issue.

6. Areas that deserved renewed attention in order to accelerate the achievement of the goal of women's equality included violence against women, women's health, women and justice and temporary special measures. There was clearly a global consensus that all forms of violence against women were unacceptable and that the international normative framework for combating such violence was in place. However, there were gaps, including shortcomings in the implementation of global treaty obligations at the national level and ongoing and widespread impunity for perpetrators. In the area of justice, she urged the Committee to consider the gender dimensions of the right to a fair trial in developing its new general comment on article 14 of the Covenant, thus building

in particular on its general comment 28 on article 3 of the Covenant.

7. **Ms. Wedgwood** wondered whether the Committee on the Elimination of All Forms of Discrimination against Women had a mandate to look at the gender hiring practices of international organizations, including the Secretariat. In that regard, she would appreciate the Special Adviser's views on a comment by a former Assistant Secretary-General for Gender Issues that there were fewer females in senior management positions in the Secretariat because member States did not propose suitably qualified candidates.

8. **Mr. Ando**, noting that one of the methods used to protect women victims of domestic violence was the establishment of shelters, asked whether the Special Adviser had developed an information network not only in each country but also among the various international bodies concerned about the effectiveness of such shelters. As Special Rapporteur on the follow-up to the Covenant's Optional Protocol, he asked the Special Adviser to share with the Committee any lessons learned on the follow-up to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, especially in view of the need for adopting a flexible country-by-country, case-by-case approach. The stress on the need for education in order to enhance women's awareness of their rights in the area of justice required considerable effort and time but paid dividends in the long run. Education, enlightenment and concrete programmes to put that knowledge into practice were important.

9. **Mr. Shearer** asked whether the Special Adviser saw any inconsistency between the Committee's practice of referring, in addressing substantive infringements of equality, to positive measures while avoiding the use of phrases such as "affirmative action" and the notion of temporary special measures used by the Committee on the Elimination of All Forms of Discrimination against Women.

10. **Mr. Solari Yrigoyen** said that the Human Rights Committee, in its consideration of country reports and in its work on communications, continuously addressed women's issues in order to ensure that women's rights were protected. Article 3 of the Covenant proclaimed the equality of men and women in the enjoyment of all civil and political rights set forth in the Covenant. The Committee was convinced of the importance of the work being done by the Committee on the Elimination of Discrimination against Women and he expressed the hope that dialogue between that Committee and the Human Rights Committee and with the Special Adviser would continue.

11. **Mr. Wieruszewski** asked whether the Special Adviser on Gender Issues and the Advancement of Women had not intended also to mention trafficking in women in her statement, especially in the light of recent disclosures about the misbehaviour of United Nations peacekeeping forces towards women in mission areas. Human rights treaty bodies needed to be more effective in combating such practices. He requested more information on how the Committee on the Elimination of Discrimination against Women (CEDAW) followed up its concluding observations in order to monitor effectiveness. In that connection, he pointed out that States parties sometimes cross-referenced issues in their reports to the Human Rights Committee and CEDAW, referring in one report to information submitted in the other. However, with the delay in the consideration of country reports by CEDAW, as mentioned by the Special Adviser, information in reports to CEDAW on an issue that might be of interest to the Human Rights Committee was sometimes unavailable to the Committee because CEDAW had not yet been able to consider the report. In conclusion, he asked how effective the use of "special measures" had proved to be in the experience of CEDAW.

12. **Mr. Kälin** said that the Human Rights Committee had always stressed the protection of the rights of women against gender-based violations and trafficking. Reports of such violations and crimes against women committed by members of United Nations operations were most disturbing. The Committee had recently stated that the Covenant applied fully outside the borders of States parties and must be observed by the armed forces of States parties wherever they might serve. He asked how the Committee on the Elimination of Discrimination against Women (CEDAW) and the Special Adviser were dealing with the problems raised by violation of rights by United Nations peacekeepers and mission staff. Noting that CEDAW had sometimes supported the application of "temporary special measures", he pointed out that the Human Rights Committee had also recently determined that what it called "positive measures", such as quotas, were in

some cases appropriate. In his capacity as the Committee member charged with drafting the Committee's general comments on article 14 he welcomed any input the Special Adviser might offer to ensure that the gender dimensions of the protections offered under the article were fully addressed.

13. **Mr. Glele Ahanhanzo** noted that he had recently sought to study the representation of women in the upper levels of certain international organizations and had been denied cooperation in his study by the leadership of those organizations. He asked whether the Special Adviser had undertaken such a study. Of all the problematic cultural issues facing human rights organizations, female genital mutilation was one of the most difficult practices to eliminate. He asked how the Special Adviser planned to deal with that issue and how education could be mobilized to encourage people to give up that harmful practice.

14. **Sir Nigel Rodley** pointed out that the two main bodies within the United Nations dealing with human rights and the protection of women — one in Geneva and the other in New York — were separated by a vast ocean. He asked how the integration of their work could be maximized so as to ensure optimal coordination.

15. **Ms. Mayanja** (Special Adviser to the Secretary-General on Gender Issues and the Advancement of Women) said she welcomed the opportunity for a dialogue and review of common issues with the Committee. Her office requested and received reports from all organizations in the United Nations system and from others on gender balance and the representation of women on their staff. It had established its own networks within the system, with non-governmental organizations and with professional organizations, seeking to identify qualified female candidates for higher level posts. However, women who were already in high positions in their national civil service or other organizations were sometimes reluctant to leave those posts to work for the United Nations. People at high levels also tended not to scan the United Nations websites to see what posts might be available, and had to be sought out. There were also sometimes problems in retaining them once they had been hired.

16. Her office did not have an international network devoted to shelters for abused women, although it received information on the subject from Member States and was aware of the best practices in various regions. However, no formal review of what was effective had been carried out. Education with regard to women's rights and access to justice was time consuming, but such education was extremely important, as victims were often unaware of their rights or that a right had been violated. Trafficking in women was a subject of great concern to CEDAW; it had figured extensively, for instance, in the recent review of the Beijing Programme of Action and had been the subject of a resolution adopted at the recent forty-ninth session of CEDAW.

17. With regard to making treaty bodies more effective in protecting human rights, CEDAW sought to maintain an active dialogue with States parties, monitoring legislation and providing guidance. Non-governmental organizations had shown themselves to be useful in helping CEDAW to be more effective. Unfortunately, with the workload and backlog facing CEDAW, it had not been able to devote adequate time to thorough reviews of the effectiveness of its concluding remarks and other aspects of its work. In that connection, she expressed the hope that the General Assembly would grant CEDAW more meeting time to enable it to reduce its backlog and consider reports more promptly, thus making it possible to follow up other aspects of its mandate. She pointed out that special measures could be effective in promoting equality between men and women. Gradually, more and more women were being elected to high posts in government and business. There had been some backlash and such measures needed to be applied carefully and in a balanced manner. She welcomed the opportunity to offer some input into the process of drafting the Committee's general comment on article 14.

18. The problem of how to ensure that Member States recognized that treaty obligations applied even outside their borders, in particular with regard to the conduct of their armed forces serving in United Nations missions, was taken very seriously by the Secretary-General. She herself would be visiting missions in the field to observe the situation and inform staff. There had been a number of investigations into violations and some prosecutions. Preventive measures were needed to train mission staff and to inform people in host communities of their rights and of the purpose of the mission.

19. Genital mutilation was one of the worst forms of violence against women and her office and CEDAW strove constantly to ensure that all understood that such harmful customary practices were in contravention of international norms, and usually of national laws as well, and were completely unacceptable.

20. *The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.*

Organizational and other matters

21. **The Chairperson** drew the Committee's attention to document CCPR/C/83/CRP.1, prepared by Mr. Amor on the basis of two documents relating to reporting under international human rights treaties, HRI/MC/2004/3 prepared for the third inter-committee meeting and A/59/254 containing the report of the sixteenth meeting of chairpersons of human rights treaty bodies. She also referred to the report of the Secretary-General (A/59/2005) just issued, and in particular to its paragraphs 146-147, proposing a reform of the United Nations human rights system through the harmonization of reporting guidelines for all the treaty bodies.

22. **Mr. Gillibert** (Secretary of the Committee), in the absence of Mr. Amor, introduced document CCPR/C/83/CRP.1, which had grown out of the Committee's discussions at the eighty-second session. It was intended to serve as input in preparation for a secretariat report on all the treaty bodies to be considered by the fourth inter-committee meeting later in the year.

23. **Mr. Kälin** said that Mr. Amor's paper, while reflecting the Committee's position, did so too harshly. It was going too far to say that the idea of a single report should be ruled out once and for all, especially since there had been no consensus on the question of legal propriety. The Committee should be careful not to block an expanded core document approach, bearing in mind that some countries were already proceeding on those lines. The discussion should be taken up again after a few years in the light of the experience gained. The Committee should reserve its right to return to its original position.

24. **Mr. O'Flaherty** emphasized the importance given in the Secretary-General's report to treaty body reform. While he agreed that there was a need for a system-wide approach, the link between the problem and the proposed solution was not evident. With regard to Mr. Amor's paper, the secretariat had never supported the single report approach, which did not however present any legal problem. On the different requirements of initial and subsequent reports, as formulated in paragraph 2 of the paper, he wished for clarification, as the Committee should not be prevented from raising questions that had not already been covered in the written documentation.

25. **Sir Nigel Rodley** stressed that the aim was to ease the burden on States by calling not for a voluminous document but for a tailored report in response to the Committee's questions, and at the same time to facilitate its own work as well as that of the other treaty bodies. The essential concern was to maintain a dialogue with States parties on the basis of questions. The Committee should therefore stick to its original position.

26. **Ms. Wedgwood** highlighted the importance of further reporting by States, in the event of new developments making it necessary to consider the situation anew. The Committee must be careful not to adopt a non-negotiable position.

27. **Mr. Rivas Posada** noted that the proposal of a single report was not a new one but had been put forward previously by the Secretary-General and discussed at the inter-committee meetings where views had continued to change without, for all that, clarifying the issues. Mr. Amor's proposal accurately reflected the concerns raised and could accordingly serve as a good basis for discussing how the Committee might usefully guide the Rapporteur in taking the matter forward.

28. **Mr. Lallah** commented on the wooliness of the ideas expressed in regard to a problem that was longstanding. The current system had been created not by the treaty bodies but by States, and harmonization would be limited by the substance of each of the different treaties. What exactly was meant by a unified approach? Was it being proposed that all the treaties should be put together for a unified report, which might be considered by a unified committee? Different instruments required different systems and procedures. Unification might, however, be achieved through a core document that could be used by all the committees. Specific questions could still be asked under the Covenant, as had been noted by Mr. Scheinin at the Committee's eighty-second session. The Committee must not be prevented from acting, since

human rights situations could change in any country and it must be able to address real problems as they arose, in accordance with the oath taken by its members.

29. **Mr. Solari Yrigoyen** said that he had left the third inter-committee meeting with the impression that the Secretary-General was unclear in his intentions concerning the core document. Mr. Amor's paper would provide a good starting point for further discussion of the question. The meeting report (HRI/MC/2004/3) contained a number of very positive proposals for the reform of the Committee's reporting requirements, as did the proposals of Mr. Kälin, Mr. Rivas Posada and the Working Group. The Committee should not mix the discussions of the two types of report. While it had little decision-making power regarding the core document, it could offer its ideas as a constructive contribution to the debate. Its decision-making power could be used to achieve greater efficiency in its own working methods.

30. **The Chairperson** said that Mr. Amor's paper might be abrupt and ambiguous, but the substance reflected the discussions so far. The idea of a single report raised in the paper's first point had been ruled out. In the second point, confusion had arisen because the necessary expansion of the core reports had not been stressed. Several elements could be added to the core report, such as specific constitutional information to allow each committee to see the framework within which its treaty would be implemented, or States could usefully reveal whether their legal systems were monist or dualist. The Committee could propose that the other treaty bodies should follow the procedures that it was considering, namely, that the initial report submitted by States would be general in nature but broad in scope; subsequent reports would be treaty-specific, focusing on questions raised by the respective committees, follow-up to recommendations and questions that had arisen since the submission of the previous report.

31. **Mr. Schmidt** (Secretariat of the Committee) said that the third inter-committee meeting had offered States the option of submitting a single report, which some countries were pursuing. The Committee had asked all treaty bodies to state more clearly how they envisaged the expanded core document and the treaty-specific report. The information was being compiled and would be made available later in 2005. Finally, the Committee had already come up with a proposal: after the initial report it would prepare, well in advance, the list of issues for the State party. The next targeted treaty-specific report would be composed of the replies to those questions and other relevant information.

32. **Mr. Kälin** asked whether "single report" meant one report for all the committees or an expanded core report. While he could agree on ruling out the former, he was against ruling out the expanded core document. In terms of its content, he saw no difficulty in including the elements in sections I and II of the diagram contained on page 14 of the meeting report. Difficulties arose with the elements set out in section III, particularly "procedural guarantees" and "participation", because of the specific features of the various treaties. A compromise should be sought between the structure of the report as envisaged by the third inter-committee meeting and Mr. Amor's proposals.

33. **Sir Nigel Rodley** said that the Committee should not oppose the idea of a State submitting a unified report if it found the practice easier. Subsequent reports should not be unified, in order to avoid the submission of long and complicated documents containing irrelevant information.

34. **Mr. Ando** agreed that there was little difference of opinion among the members of the Committee, but in the end the States parties would have the final word on the structure of the reports.

35. **The Chairperson** noted that the Committee appeared to agree with the substance of Mr. Amor's paper. It should be reviewed in the light of the morning's discussion, and a new document should be distributed for discussion the following week.

The meeting rose at 1 p.m.

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Eighty-third session

Summary record of the 2265th meeting
Held at Headquarters, New York, on Monday, 21 March 2005, at 3 p.m.

Chairperson: Ms. Chanet

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Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan

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05-27755 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan (CCPR/C/83/L/UZB and CCPR/C/UZB/2004/2; HRI/CORE/1/Add.129)

1. *At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.*

2. **Mr. Saidov** (Uzbekistan) said that his Government had taken a number of steps to implement the provisions of the Covenant. Over the past year Uzbekistan had become a party to over 60 international human rights instruments, including six United Nations treaties. Parliament had adopted over 50 laws regulating civil and political rights, a case in point being a new law broadening the scope of the Ombudsman. In fulfilment of the Vienna Declaration and Programme of Action, an institutional base for protecting civil and political rights had been established, including a parliamentary Ombudsman, a Constitutional Court and a National Centre for Human Rights. As part of the United Nations Decade for Human Rights, a human rights course had been introduced in all schools and universities. In the framework of the United Nations global information campaign, over 100 international legal texts on human rights had been translated into Uzbek.

3. Nevertheless, a range of problems continued to impinge on the state of human rights in Uzbekistan, mostly in relation to the justice system. Human rights mechanisms and procedures were only then being established; the notion of the rule of law was almost non-existent among law enforcement personnel; and the population had scant knowledge of human rights issues, a situation associated with the rapid changes that had occurred in the legal system since independence.

4. However, Uzbekistan was cooperating with various United Nations bodies in a number of areas. It had already presented six reports to United Nations treaty bodies. To date, Uzbekistan had implemented fully 18 of the 22 recommendations of the Commission on Human Rights Special Rapporteur on the question of torture, and was providing the Office of the United Nations High Commissioner for Human Rights with technical cooperation in the sphere of human rights in Central Asia.

5. A United Nations Development Programme (UNDP) human rights project for 2003-2006 was focused on increasing partnerships between the Government and non-governmental organizations. Activities over the previous year had included consultations between the main investigative body of the Ministry of the Interior and the human rights organization Freedom House, aimed at improving the dialogue between the Government and civil society, and a three-day symposium on the implementation of human rights instruments and programmes, as well as monitoring and training activities. The Ministry of the Interior had requested assistance from UNDP in providing human rights training for its staff, and 20 employees had thus far received training in such areas as international standards of arrest, detention, prevention of torture and investigative methods. Human rights libraries had been set up. Non-governmental organizations (NGOs) were also being encouraged to take up the cause of human rights, and their number currently totalled over 5,000, twice the figure in 2000.

6. With regard to the criminal justice system, a totally new concept of justice and the legal system was being implemented. Several new measures to ensure the independence of the courts had been introduced: courts specializing in criminal, civil and commercial matters had been established, and a democratic mechanism for selecting judicial personnel had been put in place. Judicial procedures were being streamlined and citizens were being afforded greater access to the courts. Classifications of crimes had been thoroughly revised and many categories of crimes were no longer punishable by incarceration. Prison conditions were being improved. The Government was preparing a habeas corpus bill, and intended to move towards abolishing the death penalty.

7. **The Chairperson** welcomed the large number of non-governmental organizations in attendance, especially those from Tashkent. She invited the delegation to address the list of issues (CCPR/C/83/L/UZB).

Constitutional and legal framework within which the Covenant is implemented. Right to an effective remedy (article 2 of the Covenant)

8. **Mr. Saidov** (Uzbekistan), referring to question 1 on the list of issues, said that in the criminal case involving Arsen Arutyunyan, the latter's prison sentence, which had begun in June 1999, had been reduced from 20 to 6 years. Following a Presidential Decree of 26 September 2003 on the liberalization of prison sentences for first-time offenders, Mr. Arutyunyan had been transferred to an ordinary-regime colony.

9. **Mr. Sharafutdinov** (Uzbekistan), referring to question 2, said that with regard to the 31 death penalty cases currently being reviewed by the Committee, in 15 cases the death sentence had been implemented before his Government had received the Committee's requests; in 7 cases the sentences had been commuted; and in 9 cases the death sentences had been suspended pending review of the appeals before the Presidential Pardon Commission.

10. Currently the death sentence was applicable to only two categories of crime — aggravated homicide and terrorism, which together constituted 0.7 per cent of all crimes. The death penalty was not applicable to women, juveniles and men over 60 years of age. Not even genocide was punishable by death, the maximum punishment being 10 to 20 years' deprivation of liberty.

11. Those condemned to death could receive monthly visits from relatives. Condemned persons could appeal for clemency and such requests were sent to the Presidential Pardon Commission for review. In January 2005 there had been discussions in Parliament on abolishing the death penalty and replacing it with long prison sentences.

Equality between the sexes and non-discrimination (articles 3 and 26 of the Covenant

12. **Mr. Saidov** (Uzbekistan), referring to question 3, said that gender equality was a top priority for his Government. Recent laws had set a 30 per cent quota for women candidates to Parliament. In the recent parliamentary elections, 162 out of 600 registered candidates had been women, a figure which surpassed the 30 per cent quota. The results of the 2004 elections showed a threefold increase in the percentage of women elected to Parliament as compared with 1994. The number of women in official positions was also increasing: the Deputy Chairman of the Senate, the Deputy Speaker of the lower house of Parliament, the Ombudsman, and the Deputy Prime Minister were all women. Every village, city and provincial administration had a deputy head, who was usually a woman. There had also been a dramatic increase in the number of women's non-governmental organizations.

13. Referring to question 4, he said that sexual assault against women and minors and various forms of sexual coercion, including trafficking, were punishable under the Criminal Code. The Government had established a committee to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. Parliament was considering other laws to ensure gender equality.

14. Women's non-governmental organizations were helping to change attitudes towards women in society through gender research, outreach efforts and cooperation with international organizations.

Derogations (article 4 of the Covenant)

15. **Mr. Saidov** (Uzbekistan), referring to question 5, said that in the event of a declaration of a state of emergency, his Government would be guided by the following principles: humanism and the primacy of human life and health; transparency; timeliness and accuracy of information; and early warning and preventive measures.

16. Legislation adopted in 2000 governed civil defence procedures, the authority of State bodies and the rights of citizens during emergencies.

Right to life (article 6 of the Covenant); freedom from torture, treatment of prisoners and other detainees (articles 7 and 10 of the Covenant)

17. In response to question 6, **Mr. Sharafutdinov** (Uzbekistan) said that although the number of people who had been sentenced to death and the number of sentences carried out were a State secret in accordance with a 1994 government decree, he could describe general trends with respect to the death penalty. The number of death sentences carried out since the consideration of the initial periodic report had steadily decreased. In 2001 the number of death sentences carried out had decreased by 35.8 per cent from the previous year; in 2002 by 54.7 per cent; in 2003 by 17.9 per cent; and in 2004, by 53.1 per cent. Between 2000 and 2004 the number of death sentences carried

out had been reduced almost ninefold. Between 2002 and 2004, 32 persons on death row had had their sentences commuted.

18. In accordance with criminal procedure, any sentence or court decision must be based on relevant, substantiated and admissible evidence. The issues related to the requirements for such decisions had repeatedly been taken up by the Supreme Court, which had put forward appropriate recommendations that must be implemented by judicial bodies and law enforcement agencies involved in the discovery and investigation of crimes. In 2004, for example, the Supreme Court had adopted a decision on the application of the Code of Criminal Procedure stating that evidence obtained unlawfully or through coercion was inadmissible. The Ministry of Internal Affairs, the Procurator's Office and the National Security Service were all implementing that decision.

19. Concerning question 7, he said that in accordance with a government plan of action to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would allow appropriate information to be provided to the relatives of persons sentenced to death; relevant legislation would be transmitted to the legislative branch for consideration. Legislation on declassifying death penalty procedures would also be sent to Parliament. Parliament was still reviewing the issue of abolishing the death penalty.

20. **Mr. Saidov** (Uzbekistan) added that, based on the recommendations of the Committee, the law on State secrets was under review. Furthermore, under article 137 of the Code for the Execution of Criminal Penalties, persons sentenced to death had the right to visits by clergy members.

21. With respect to question 8, **Mr. Sharafutdinov** (Uzbekistan) said that cases of detainees who had died in custody were carefully investigated. Medical experts were appointed to determine the cause of death and appropriate action was taken as a result of the medical report. In addition to a mandatory investigation by the Procurator's Office, an official investigation was carried out by a special division of the Ministry of Internal Affairs and, where necessary, law enforcement experts were called in to assist in the investigation.

22. A special commission of inquiry established to investigate the prison deaths of Andrei Shelkovenko and Samandar Umarov in cooperation with independent foreign experts had concluded that no unwarranted methods had been applied to the detainees. Mr. Shelkovenko had died by hanging himself and Mr. Umarov had died of natural causes. Before the investigation was completed, the news media had reported that Shelkovenko was yet another victim of torture in Uzbekistan. The inquiry showed, however, that no torture had been involved in their deaths, and that had been reported by the foreign experts at a press conference. Human rights groups had also been actively involved in the investigation into the cause of Mr. Umarov's death and had expressed their views.

23. **Mr. Saidov** (Uzbekistan), referring to question 9, said that the new version of article 235 of the Criminal Code on penalties for the use of torture, which brought Uzbek legislation into line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, had been effective. In 2004 there had been 330 complaints by citizens of abuse by law enforcement officials. Of those complaints, 79 had been confirmed and appropriate measures had been taken against the offenders. Fourteen of them had been convicted under section 235 of the Criminal Code of using torture. The Special Rapporteur's recommendation concerning torture by members of official bodies had been complied with, because all three branches of Government had condemned the use of torture. They included the President's adviser, the Ministry of Internal Affairs and the Procurator's Office.

24. Concerning question 10, **Mr. Sharafutdinov** (Uzbekistan) said that following the Special Rapporteur's visit to Uzbekistan, the latter's recommendations on the question of torture had been used as a basis for drafting human rights legislation and governmental decisions. The Cabinet of Ministers had subsequently adopted an action plan for 2004-2005 to implement the Convention against Torture. The plan incorporated all 22 recommendations of the Special Rapporteur. Several practical and organizational measures included in the plan had been implemented: the most prominent included amendments to article 235 of the Criminal Code with the addition of an article on the use of torture and other cruel, inhuman or degrading punishment. That article specified the penalties against officials, including investigators, interrogators, prosecutors and other law enforcement personnel, for any mistreatment of criminal suspects,

their family members or witnesses, aimed at eliciting information or confessions of a crime. The Code for the Execution of Criminal Penalties had also been amended to enhance the personal safety of convicted persons and procedures had been established for prisoners to appeal to the prison administration in the event that they were concerned about their safety.

25. State monitoring of the implementation of legislation against torture in places of detention and execution was carried out by the Procurator's Office. In order to ensure independent monitoring of prisons, legislation was planned to strengthen parliamentary oversight through the human rights Ombudsman. Furthermore, 90 doctors had been trained in detecting the use of torture and other forms of ill-treatment in prisons. Every detainee received full medical care and was examined for evidence of ill-treatment.

26. A presidential decree of March 2005 on reform and further liberalization of the legal and judicial system reflected the aforementioned plan of action to implement the Convention against Torture. The reform had five objectives. The first was regulating procedures for the detention of suspects and their placement in custody. Studies had shown that the majority of infringements on the law, including torture of detainees, occurred while suspects were held in custody and law enforcement officers attempted to obtain information or a confession. Therefore, the Ministry of Internal Affairs had issued an order in 2003 on provisional detention of suspects, guaranteeing a medical examination. In 2004, regulatory acts concerning law enforcement agencies had prohibited the detention of any suspect on the basis of false or uncorroborated evidence. Efforts were being made to raise the level of human rights awareness among law enforcement agencies through training and education, including a booklet on criminal procedure, published in cooperation with UNDP.

27. The second objective concerned criminal procedure, including the timely reading to persons under arrest of their rights, the provision of legal counsel and notification of the immediate family members of detainees. Those measures were also a substantial means of preventing the torture of detainees. In 2003, the Ministry of Internal Affairs, in conjunction with the Bar Association of Azerbaijan, had approved regulations to safeguard the right of defence of detainees, suspects and accused persons. The regulations provided for the strict round-the-clock availability of defence lawyers, which addressed the concern expressed by the Special Rapporteur about the need for independent counsel and the practice of having defence lawyers work hand in hand with the prosecution. They also established the opportunity for persons held in custody to obtain legal counsel within at least two hours of their arrest and procedures for their lawyers to lodge formal complaints of any violations during their detention. Most important, judicial oversight had been instituted over law enforcement bodies to protect the rights of detainees, which would serve as a system of checks and balances against coercive procedures.

28. The third objective was to ensure independent investigations of alleged ill-treatment by law enforcement agencies. Under the new procedures, any evidence of abuse was transmitted to the Procurator's Office for appropriate action. In cases involving the death of detainees, an investigation was carried out by the Procurator's Office, whose approval was required before any burial of the deceased or issuance of a death certificate was permitted. Any violations of the procedures were punishable by strict penalties. Therefore, claims that his Government did not undertake adequate investigations of torture allegations were unfounded.

29. Such independent investigations, however, were not yet regulated by law. Therefore, the investigations into the deaths of Mr. Shelkovenko and Mr. Umarov constituted precedents that were paving the way for the establishment of the relevant legislation. In December 2004, for example, the Ministry of Internal Affairs, together with the Ombudsman, had concluded an agreement on cooperation to ensure the monitoring of human rights and compliance with the law by the internal affairs agencies.

30. The fourth objective was to promote transparency in the law enforcement agencies. Unfortunately, insufficient attention had been paid to the issue in the past while Uzbekistan was striving to build a democracy, but his Government had begun to take steps towards involving civil society in monitoring the activities of law enforcement agencies, including the establishment of a "Rapid Reaction Group" to respond effectively to any violations reported by human rights activists.

31. The fifth objective was to raise the level of human rights awareness among law enforcement

agencies. Special attention had been given to testing officials in that respect and to providing further training for senior officials. Efforts were also under way to establish a certification procedure for the heads of the internal affairs agencies with regard to their knowledge of human rights and the law.

32. To achieve the goals set forth by the Special Rapporteur would require providing education for the law enforcement agencies so that every officer would recognize the need to comply with the law and respect human rights. In other words, there was an urgent need to change ways of thinking, without which reform would be impossible.

33. Referring to question 11, **Mr. Saidov** (Uzbekistan) said that extradition, expulsion and return were regulated by bilateral agreements, usually judicial assistance treaties, that Uzbekistan had concluded with other States. Any extradition must be in keeping with the legislation of both parties to the agreement and must involve a crime punishable in both States by imprisonment of one year or more. Extradition could be refused if the person in question was a citizen of Uzbekistan or had been granted asylum there; if the request for extradition was based merely on an individual victim's claim against the person concerned; if the prosecution of the crime or the imposition of the sentence in question was time-barred; if the request would involve an instance of double jeopardy; or if the crime had been committed by a national of the other State in the territory of Uzbekistan. Extradition could certainly be refused if there was a serious possibility that the person in question would be tortured in the requesting State; as indicated in the report, there was no law on the matter, but the relevant norms of international law could be invoked.

34. With regard to question 12 on conditions of detention, the Government had sent copies of the United Nations Standard Minimum Rules for the Treatment of Prisoners to all penal institutions. Food rations in prison were regulated by a 2002 Cabinet of Ministers decision, and they varied according to the age of the prisoner, the seriousness of the crime committed and other considerations. A minimum of 2,000 calories daily was standard, but prisoners could receive more on medical grounds.

35. There had been a liberalization of the rules governing the payment detainees received for work performed in prison and their right to family visits, parcels and telephone calls. A presidential decree had liberalized the rules for sentencing first-time offenders to prison, cutting the number of arrests in half since 1999, and had also revised the Criminal Code by classifying a number of crimes more leniently, thus easing the sentences of about 6,000 convicts and transferring thousands to less harsh institutions, or releasing them altogether. While the number of some petty crimes had increased, there had been an overall decline in serious crime in the country.

36. Eighty per cent of detainees were being paid close to the minimum wage for doing useful work while serving their sentences. Since 1999, conditions in the prisons had been inspected by representatives of the Oliy Majlis, or Parliament, and by national non-governmental organizations. Uzbekistan now had one of the most transparent penitentiary systems in the world: all prisons were open for both national and international inspection — not the case years earlier — and, indeed, since 2001 the International Committee of the Red Cross had made repeated visits, as had representatives of the European Parliament, several European Governments, the United States of America, the Islamic Republic of Iran and Turkey and also correspondents from the major United States and European press agencies.

37. Jaslyk prison in Karakalpakstan — which like the whole Central Asian region was still suffering from the Aral Sea tragedy and regularly experienced extremes of heat and cold — had been visited by the United States Ambassador accompanied by a Freedom House representative, and by the Independent Expert of the Commission on Human Rights on the situation of human rights in Uzbekistan. Moreover, a national commission had been set up composed of representatives of the Procurator's Office, the Ombudsman, the National Centre for Human Rights and the Ministry of Internal Affairs, to inspect conditions there first-hand and to identify any instances of torture or ill-treatment. It had been determined that the prison met international requirements for space, food and medical services. Road access to Jaslyk was being improved, and the Government was planning to expand hospital facilities, build hotel-type accommodations for long family visits, provide a well-stocked library and athletic fields, and offer training for individual activities.

Security of the person and protection from arbitrary arrest (article 9 of the Covenant)

38. **Mr. Sharafutdinov** (Uzbekistan), referring to questions 13 and 14 on the list of issues, said that pursuant to the National Plan of Action to Combat Torture, the Ministry of Justice was currently considering a draft regulation that would improve the conditions of police custody and pre-trial detention, and the President himself had urged Parliament in January 2005 to revise the legal provisions governing the holding of suspects to give the courts greater control of pre-trial procedures.

39. The National Centre for Human Rights had been considering the institution of habeas corpus since 2003 and, following an Organization for Security and Cooperation in Europe/UNDP/United States Lawyers Association round table on legal reform, proposals had been made to the Ministry of Justice for the introduction of habeas corpus and the revision of the Criminal Code to bring it into line with international standards, including those of the Covenant. In 2004, the Ministry had put out a report on the issue and set up a working group, of which he himself was a member, to propose legal reforms and strengthen court control over investigations and over the Procurator's Office. The group had agreed that suspects should not be held in custody for as long as 72 hours, and he himself was a proponent of the British system of a 24-hour time limit with a possible 12-hour extension. The working group had prepared a draft proposal and was now working on the financial implications of the proposed changes before its submission to Parliament. The application of habeas corpus alone would require overhauling the court system, because it would require many more judges than the 1 per 25,000 inhabitants currently in place.

40. Non-governmental organizations had been actively involved from the outset in making proposals to improve the rules and reform the court system in general, and all citizens interested in those human rights questions could make their voices heard.

41. **Mr. Saidov** (Uzbekistan) said, regarding the ongoing debate about removing the entire penitentiary system from the control of the Ministry of Internal Affairs, that some in the Government had argued for making no change, others for its transfer to the Ministry of Justice, and others for putting the system under the direct control of the Cabinet of Ministers because prison issues related to employment as well as the administration of justice. The legal and financial aspects had to be considered along with the need to train law enforcement officials in new procedures.

42. **The Chairperson** invited the members of the Committee to ask questions on the replies to the first part of the list of issues.

43. **Mr. Wieruszewski**, observing that the report was timely and much richer than Uzbekistan's initial report, welcomed the statement that non-governmental organizations were free to speak out on humanitarian issues. With regard to question 1 on the list of issues, he noted that the delegation had failed to say anything about the procedures in place for the implementation of the Committee's Views under the Optional Protocol. So far, the Committee had ruled on three cases involving Uzbekistan, and it was unclear who in the Government made the decisions on compliance with Views. A reply had been received on the *Nazarov* case; that very day, the Government had given a delayed response to the Committee's ruling in the *Arutyunyan* case: and as yet no reply had been received on the *Hudayberganova* case. The Government's reply on Mr. Arutyunyan, however, made no reference to the Committee's recommendation for a further reduction of his term of imprisonment and for compensation to be paid, and it was unsatisfactory.

44. With regard to question 2, it was a very serious breach of Uzbekistan's obligations under the Optional Protocol to have executed many of the death-row prisoners who had petitioned the Committee — at least 15 per cent of them, by the delegation's own account. The Committee had called strongly for interim measures of protection for all of them. Fortunately the Government now seemed to be taking the matter more seriously and had apparently granted a stay of execution in the case of nine of the remaining petitioners. He asked the delegation to confirm, however, that Mr. Tolipkhuzhaev specifically had received a stay, since the Committee had received an unconfirmed NGO report that the petitioner had in fact been executed in early March 2005. To continue carrying out such executions would seriously undermine the credibility of the State party and its oral assertions about compliance with international norms.

45. It had been encouraging to hear the improvements made in connection with questions 3 and 4 on women's rights, but domestic violence, for social

and cultural reasons, still seemed to be a problem. He wondered if the Government kept official statistics on violence against women, because the failure to do so would hamper any effort to improve the situation; if it was working to develop services for victims of violence and trafficking; if it had taken an official position criminalizing polygamy, a clear violation of article 3 of the Covenant, and had done anything to equalize the marriage age for men and women; and if it was doing anything to punish those guilty of rape and other sexual crimes, who appeared still to enjoy impunity. Also, he asked if the Government had done anything to revise article 120 of its Criminal Code, which criminalized homosexuality and had been the basis for many prosecutions, in clear violation of article 26 of the Covenant, which protected against discrimination on the grounds of sex.

46. **Sir Nigel Rodley** said that he wished to know precisely what information was being given to the families of persons sentenced to death, how far that practice had developed and how much remained to be done. It was unclear whether the State party was taking steps to inform both condemned persons and their families about the exact date of execution and place of burial, as it had been requested to do. The Committee had made it very clear at the last review that the failure to inform condemned persons and their families properly was a violation of the Covenant, particularly article 7.

47. As for the State party's claim that 18 of the 22 recommendations made by the Special Rapporteur on the question of torture had been fully implemented, he was curious to know which four recommendations had not, in its view, been fully implemented. Moreover, he doubted that two recommendations specifically mentioned by the State party had been fully implemented, as claimed. For example, a statement by a presidential adviser to diplomats and foreign journalists did not, in his view, constitute the kind of high-level statement publicly condemning torture in all its forms that had been recommended by the Special Rapporteur; it seemed to be aimed at keeping people outside the country happy, rather than sending a strong message to judicial and law enforcement officials inside the country. In addition, although the President had promised to make such a statement at a meeting of the European Bank for Reconstruction and Development in 2003, he had failed to do so. Lastly, despite the Special Rapporteur's recommendation that the definition of torture adopted should be fully consistent with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the actual definition was so far removed from the Convention that the Supreme Court had been required to state that it would be enforced in accordance with the Convention.

48. He welcomed the information that lawyers were now present during investigations and that denial of access to legal counsel was severely punished. However, he wished to know whether any measures had been taken against investigators in the cases of Mr. Shelkovenko and Mr. Karimov, both of whom had been held for over 50 days without access to legal counsel. The Committee had specifically requested statistics on investigations and prosecutions in respect of ill-treatment by State officials. In view of the State party's comment that training was still required, he wished to know what measures had been taken in that regard. While he welcomed the State party's decision to seek external assistance in investigating suspicious deaths in detention, particularly in view of its lack of resources, the Committee wished to know exactly how many such deaths had been investigated by outside experts. In particular, the State party should clarify whether all the cases brought to the Committee's attention had been investigated, or only the two mentioned. Lastly, he wished to know when the legislation on the establishment of habeas corpus, which the President had submitted to Parliament in January 2005, would enter into force.

49. **Mr. Kälin**, while acknowledging that progress had been made in reducing the number of detainees, redefining serious offences and declaring that confessions obtained by torture were inadmissible, said there still seemed to be a gap between the picture painted by the State party and the situation on the ground, as reported by NGOs, United Nations special procedures and the media. He reiterated that the execution of 15 people in relation to whom the Committee had issued interim protection measures was a serious violation of the State party's international obligations. Such measures had nothing to do with the granting of clemency or a moratorium on the death penalty. Article 1 of the Optional Protocol clearly stated that a State party to the Optional Protocol recognized the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction. The Committee could not consider

communications if the individual concerned was no longer alive. Other human rights courts and the International Court of Justice had taken a similar approach, indicating that interim protection measures were binding and that non-observation of such measures was a serious violation of international law.

50. He had taken note of the State party's legislative provisions regarding emergencies and civil defence; nonetheless, the State party had not answered the question regarding the non-derogable nature of the rights listed in article 4, paragraph 2, of the Covenant. Moreover, article 93, paragraph 15, of the Constitution on the declaration of states of emergency made no reference to article 4. He asked the State party to specify how domestic legislation guaranteed that requirement in the event of a state of emergency.

51. In its reply concerning expulsion, return or extradition to States where there was compelling evidence to suggest that a person might be tortured, the State party had basically reiterated what was in the report, whereas the Committee had asked whether the State party intended to adopt new regulations explicitly prohibiting such measures.

52. While welcoming the State party's detailed reply concerning prison conditions, he would appreciate further clarification concerning its worrying statement that food rations could be significantly reduced for persons accused of serious offences.

53. **Ms. Wedgwood** welcomed the fact that the delegation comprised high-ranking government officials, as that would ensure that the Committee's comments were not overlooked in the process of transmittal. She was, however, puzzled by the State party's reluctance to provide statistics on the number of death sentences carried out, as requested by the Committee, and failed to understand why such statistics were a State secret. In the light of the new legislation and the reduction in the number of capital offences, she wondered whether any persons convicted under the old legislation had been given more liberal sentences.

54. With regard to the length of time that a suspect could be held in custody without access to counsel, she reiterated that the longer a person was hidden from public view, the greater the temptation to apply excess force, hence the reason for the 24-hour rule. She wondered whether the State party had taken any steps to discourage the mistreatment of detainees; in particular, had it transferred or suspended any public officials indicted for abuse or torture, as recommended by the Special Rapporteur? Did it allow the Ombudsman round-the-clock access to detention centres? Was a prosecutor on duty to monitor the behaviour of law enforcement authorities? The State party should also provide information on the number of persons prosecuted for torture and the number of victims awarded civil damages.

55. As for the intention to enact a law establishing habeas corpus, she wondered why it was not possible to follow the example of the United Kingdom and Israel and impute habeas corpus through an interpretation of existing administrative law, thereby removing the need for a separate statute. She was particularly concerned at the State party's comment that it would not be able to afford habeas corpus until it had additional resources, as that could take a long time. She was also concerned about reports from human rights groups that people incarcerated on mental health grounds had initially been arrested for being political dissidents; she asked whether people arrested on mental health grounds had any way of challenging their incarceration or whether they, too, had to wait for a habeas corpus statute. Lastly, she would be grateful for information as to whether someone could be arrested without a warrant in Uzbekistan and, if so, whether any steps had been taken to minimize such occurrences.

56. Lastly, she was concerned about the reference to incarceration regimes. While she understood that prison conditions varied depending on the threat posed by inmates, it was unacceptable for prisons to deliberately maintain poor conditions for punitive purposes, as seemed to be the case in Uzbekistan.

57. **Mr. Shearer** said that he, too, wished to know exactly how many executions had been carried out. It seemed extraordinary that such matters were considered a State secret when plenty of other information was available. Keeping such information secret amounted to a total lack of transparency and would prevent people both inside and outside the country from seeing that progress was being made. Such lack of transparency applied to other areas too; for instance, he would appreciate more precise information concerning the efforts of the judicial authorities to draw up rules, instructions, methods and practices for conducting investigations, and whether any concrete proposals had been made towards

abolishing the death penalty, which the Government was reported to be considering.

58. It was his understanding that the considerable number of girls under 18 years of age who were marrying out of economic necessity did so not under domestic law but under Sharia law. He wondered what steps the Government was taking to address the discrepancy between the two types of law.

59. Lastly, he wished to know how the State party planned to address the reports concerning the negative consequences of the criminalization of homosexuality under Uzbek law, including potential extortion by State authorities and private individuals.

The meeting rose at 6 p.m.

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Summary record of the 2266th meeting
Held at Headquarters, New York, on Tuesday, 22 March 2005, at 11 a.m.

Chairperson: Ms. Chanet

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05-27953 (E)

The meeting was called to order at 11.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan
(CCPR/C/UZB/2004/2)

1. *At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.*

2. **Mr. Saidov** (Uzbekistan), continuing his delegation's answers to questions put by members of the Committee with regard to issues 1 to 15 on the list of issues, said that Uzbekistan was working on developing better machinery to review complaints and communications forwarded by the Committee and to respond to recommendations by the Committee in a timely manner. At present communications from the Committee were forwarded to the appropriate body in Uzbekistan, which made recommendations on measures to be taken, and information about the outcome was then sent back to the Committee. It was a new situation for authorities in Uzbekistan, and law enforcement authorities and other Government officials were slowly gaining experience in implementing the norms of the international human rights instruments, including the Covenant, to which the Government attached great importance. On the subject of violence against women, the Committee had been provided with a copy of a recent study presenting the results of a survey on domestic violence in Uzbekistan carried out by a non-governmental social research centre. In that connection the Government was collaborating with non-governmental organizations that were developing a system to assist victims of domestic violence. Media attention on the subject was also helpful in educating people.

3. Polygamy was considered a form of discrimination against women and was a crime in the Criminal Code. It had cultural roots going back before 1917. Uzbekistan had differing minimum ages for marriage for each sex, 18 years for men and 17 for women, but such differences were found in many countries. Forced juvenile marriage was a crime. Rape was treated as a most serious crime and the incidence of rape was under 1 per cent and had declined slightly. Homosexuality was a crime for men but no laws existed regarding homosexuality among women. He had not been able to obtain statistics on the incidence of homosexuality. Prohibitions against homosexuality had long-standing cultural and religious roots.

4. With regard to reducing secrecy and uncertainty surrounding capital cases, clear rules had been worked out requiring authorities to inform the next of kin of executions. On the status of the implementation of the recommendations made by the Special Rapporteur on torture after his visit to Uzbekistan in 2002, 4 of the 22 recommendations were still being reviewed, namely, those dealing with the length of pre-trial detention, the transfer of the administration of prisons from the Ministry of Internal Affairs to the Ministry of Justice, the possible closure of the Jaslyk penal colony and making the declaration provided for in article 22 of the Convention against Torture recognizing the competence of the Committee against Torture to receive communications from alleged victims of violations of the Convention. In each case the Government had found that it could not fully agree with the recommendation or felt that Uzbek society was not yet ready for the changes that accepting the recommendation would entail. All branches of Government in Uzbekistan condemned torture, but attempts to insist that a head of State, in particular the President of Uzbekistan should make a public statement at an international gathering expressing that State's rejection of torture represented a distortion of the recommendations by the Special Rapporteur and infringed on the sovereignty of the Government of Uzbekistan.

5. **Mr. Sharafutdinov** (Uzbekistan) said that, under article 235 of the Criminal Code, any person, including law enforcement officials and members of the judiciary, resorting to torture was criminally responsible. It was true that the language in the article did not fully match the text of article 1 of the Convention against Torture but the Supreme Court had prepared definitions and recommendations on torture so as to enable officials to apply the Government instructions against torture in practice. Members of the Committee had referred to several cases in Uzbekistan where defendants' procedural rights had allegedly not been protected, in particular the right to counsel. Those cases had been investigated by non-governmental experts and, where violations had been proved, law enforcement officials had been disciplined. About a dozen officials of the Ministry of Internal Affairs had

been prosecuted for abuse of power and torture; such action would have been unimaginable 10 years earlier. Independent investigation had proved to be an important means of preventing torture. Cases in which detainees had died while in detention or where allegations had been made of illegal means of investigation had been investigated with the help of experts from North America and Europe. Recently, the office of the Ombudsman had agreed to participate in such investigations as well.

6. **Mr. Saidov** (Uzbekistan) said that during the past two years 544 officials from law enforcement agencies, including the Procurator's Office and the Ministry of Internal Affairs, had been prosecuted for torture. In principle, any departure from the law, torture in particular, by enforcement officials was not tolerated. Cases were investigated and widely publicized in the media; perpetrators were severely punished. The Government was working with non-governmental organizations on projects to increase public control over law enforcement.

7. Following the Special Rapporteur's recommendations (E/CN.4/2003/68/Add.2, para. 8) and the measures described in paragraphs 24 and 132 of Uzbekistan's report (CCPR/C/UZB/2004/2), the Government had decided to amend the Code of Criminal Procedure to include habeas corpus. Given the lengthy legislative steps involved, no specific date could be given for its introduction.

8. He agreed there was a considerable gap between law and practice and from the date of adoption of legislation until the law entered into effect, but the problem was not unique to Uzbekistan. Nonetheless, his Government was now focusing on the effective application of civil and political rights.

9. In a state of emergency, any derogation from or limitation to the articles of the Covenant cited in its article 4, paragraph 2, was inadmissible, and Uzbekistan consistently respected the principle of non-discrimination.

10. Uzbekistan currently dealt with extradition under international law via bilateral treaties. It might in future have to regulate the practice at the national level.

11. The prison diet's basic daily caloric content was 2,550 calories per 24-hour period. Doctors could recommend larger rations. Funds allocated to the different penal institutions varied, but there had been an overall increase of between 150 and 300 per cent following the amendment of the Criminal Code.

12. In 2004 the Government had conducted a survey and found that 78 per cent of Uzbeks opposed the abolition of the death penalty. Before it could be abolished, the Government had to prepare public opinion by educating the population and create suitable conditions for long-term sentences. Preparations could take from two to three years.

13. Sharia law had been abolished in 1921; it was not the effective law of the nation. Uzbekistan was not an Islamic State, but a secular State with an Islamic influence.

14. **Mr. Sharafutdinov** (Uzbekistan) said that if the sentence for a particular offence was reduced by law, the reduction entered into effect for persons convicted of that offence. An overall reduction in periods of detention was more difficult to achieve; procedures had to be amended and the judiciary had to be sensitized.

15. The amount of time required for a detainee to have access to a lawyer had been reduced from within 24 hours to within one to two hours from the time of arrest.

16. The Procurator of each region was responsible for conditions in pre-trial detention centres and penal colonies, including regular and solitary confinement cells. A representative of the Ombudsman would in future monitor living conditions and human rights in the colonies.

17. **The Chairperson** invited the delegation of Uzbekistan to address questions 15 to 28 on the list of issues.

Freedom of movement and right to leave and to return to one's country (*article 12 of the Covenant*)

18. **Mr. Saidov** (Uzbekistan), replying to question 15, said that a law passed in 1996 permitted Uzbek citizens to travel abroad; within two years the number of trips would no longer be restricted.

No expulsion of aliens without judicial guarantees (*article 13 of the Covenant*)

19. **Mr. Saidov** (Uzbekistan), replying to question 16, said that counter-terrorism legislation in force provided for the coordination of the work of the

relevant bodies under the National Security Service (SNB) and for dealing with individuals considered a threat to national security. Conditions surrounding expulsion, extradition or return of aliens were dealt with in paragraphs 163 and 164 of the report.

Right to a fair trial (article 14 of the Covenant)

20. **Mr. Saidov** (Uzbekistan), replying to question 17, said that judges were currently appointed for five-year terms. The discussion provoked by paragraph 14 of the Committee's concluding observations at its seventy-first session (CCPR/CO/71/UZB) had yielded three view-points: the five-year term was the same as that of Parliament and other bodies and should therefore be retained; terms should be increased to ten years; and judges should be appointed for life to reduce bureaucratic delays. Judicial independence was not merely a matter of length of the term of appointment; it was guaranteed by other measures, as set out in paragraph 176 of the report.

21. **Mr. Sharafutdinov** (Uzbekistan), replying to question 18, agreed that procurators and lawyers did not have the same powers. However, the scope of procuratorial powers was regulated by laws. Future reforms would provide for a review of the system and the granting of more powers to the defence.

22. **Mr. Saidov** (Uzbekistan) said that the Criminal Code and the Code of Criminal Procedure clearly set out the guarantees enjoyed by persons suspected of terrorist offences, including the need to inform them of the charges and any evidence against them. They were, inter alia, entitled to legal representation, to the use of their mother tongue and to the services of an interpreter and must be interrogated no later than 24 hours after their arrest. Uzbekistan had unconditionally ratified the 12 basic international treaties on terrorism. Its Act on Combating Terrorism was based on international standards, the experiences of other States and its own experience. The law clearly defined terrorism and set out the basic principles and priorities for combating and preventing it as well as the international cooperation needed in that regard.

23. **Mr. Sharafutdinov** (Uzbekistan), responding to the question on the use of torture to obtain confessions, noted that the presumption of innocence was enshrined in the Constitution. Any allegations of the use of torture to extract information were investigated. With a view to ensuring transparency in the work of law enforcement agencies, the Government had begun to systematically brief international human rights organizations and representatives of the diplomatic corps accredited to the country on various criminal cases and inform them of any evidence presented against suspects, especially in cases of allegations of torture. While work with respect to transparency was in the early stages, the authorities were confident that with the experience and knowledge gained from international standards and from the five strategic ways identified of eliminating torture, they would be able to strike the appropriate balance between combating crime and guaranteeing respect for human rights.

24. **Mr. Gaziev** (Uzbekistan) said that there were no restrictions on the holding of religious services. More than 2,000 religious organizations had been registered by the Ministry of Justice, which, together with the Government's committee on religious affairs, had oversight over such bodies. The activities of such organizations permitted under the law ranged from the dissemination of religious literature and organization of pilgrimages to the establishment of import/export ventures. The State did not control or regulate religious practices nor did it interfere with religious organizations and their faith.

25. The legislation of Uzbekistan enshrined the right of citizens to form political parties, trade unions and other organizations and to take part in mass movements. The law on political parties had been amended and improved four times since 1999. A new law had been enacted on the financing of political parties; it covered issues such as the collection of funds and the expenditure and sources of property of political parties. Those efforts were mainly aimed at creating a genuine democratic machinery for the functioning of political parties. To date, the Ministry of Justice had registered five political parties.

26. The Ministry of Justice was the main Government agency responsible for the registration, in accordance with well-defined procedures, of non-governmental organizations, whose number had increased two-fold over the past five years, demonstrating that there were no problems in that regard. A total of 5,276 non-profit-making NGOs had been registered and were operating in the country. Furthermore, a non-governmental organization institute for studying civil society had been established which pursued a policy of social partnership with NGOs and encouraged the

development of civil-society and mass-media institutions.

27. **Mr. Saidov** (Uzbekistan), taking up the question on freedom of religion, stressed that since independence there had been no inter-religious conflict in Uzbekistan, which guaranteed full equality between religions. The Law on Freedom of Conscience and Religious Organization was currently under review with a view to further strengthening such guarantees.

28. He questioned the figure, cited in paragraph 23 of the list of issues, of 6,000 persons imprisoned for their religious beliefs, asking where it had originated. Only 80 persons were currently being held for expressing their religious beliefs, and their offence lay in their having done so by carrying out extremist activities in the territory. Of the 5,000 persons who had been detained because of their religious beliefs, the great majority had been released, mostly under an amnesty.

29. Concerning freedom of expression, journalists were not prosecuted in his country, except where they broke the law, as in the case of a newspaper editor who had been convicted the previous year for a financial crime. Following the review of Uzbekistan's report in 2001, a broad debate had been set in motion between State bodies, the press and civil society, and the text of the Committee's concluding remarks had been widely disseminated throughout the country and published in the journals of the National Centre for Human Rights and of the Uzbek Bar Association.

30. **Mr. Castillero Hoy s** welcomed the institutions set up to promote human rights in Uzbekistan, in particular the Centre for Human Rights and the Ombudsman, but wished to have detailed information about how they functioned and their resources, particularly since it was reported that the latter had been prevented from investigating a case involving detention and interrogation without due process. What means of dialogue were actually available? He had also learned with concern that applications to register submitted by human rights bodies had been turned down on the grounds of article 43 of the Uzbek Constitution, which stipulated that it was the responsibility of the State to safeguard the rights and freedoms of citizens. He wished to know therefore what the relationship was between the State and human rights organizations.

31. He would also appreciate information about the circumstances in which death sentences were commuted; the measures taken to combat corruption and ensure the right to a fair trial; and the possibilities of formation of new political parties. He wondered in particular, with reference to paragraph 297 of Uzbekistan's second periodic report, how the restrictions on the registration of political parties squared with the requirements of the Covenant.

32. **Mr. Wieruszewski** alluded to specific cases of violations of Covenant-protected rights reported in Uzbekistan on which he wished to have an official answer. He would also appreciate information on measures to strengthen the judiciary, in particular by giving judges life tenure, which was an important element of their independence in post-Communist countries, as well as by ensuring reasonable salaries for them. Noting that in the current situation judges had only five years' tenure, he requested full information on the criteria applied for their re-election. Lastly, he questioned the compatibility with the Covenant of the law on the protection of State secrets, understood as information whose divulgation was considered hostile or harmful to the State. Restrictions thus placed on media and press freedom created a situation that was not conducive to the sharing of information.

33. **Ms. Wedgwood** stressed the need for transparency in respect of criminological data, regretting that that no information had been provided about the number or dates of death penalties carried out. Referring to question 15 in the list of issues, she cited the case of two human rights activists who had been denied permission to attend a seminar on human rights in Bishkek in 2004 and asked for clarification regarding the prohibition against leaving the country placed on persons convicted of the crime of homosexuality. Moreover, while noting the Government's positive stance on religious freedom, she considered that denial of the right to proselytize was not consistent with the provisions of the Covenant. She also wondered whether concerns about religious extremism justified the reluctance to permit religious dress in educational institutions and how the line was drawn between what was seen as incitement to violence and the espousal of strict theological views.

34. **Sir Nigel Rodley**, after noting that the Human Rights Committee could not require heads of State to take any particular action, said there had been no response so far to recommendation (k) of the Special Rapporteur on Torture, to the effect that confessions under certain conditions should not be admissible as

evidence and that there should be video and audio tapings of interrogations. He wished to know what if anything was being done to give effect to that recommendation. He also requested clarification regarding reports that applications for registration made by certain civil society groups had been refused on constitutional grounds.

The meeting rose at 1 p.m.

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Summary record of the 2267th meeting
Held at Headquarters, New York, on Friday, 22 March 2005, at 3 p.m.

Chairperson: Ms. Chanet
later: Ms. Palm
(Vice-Chairperson)

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05-27694 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan (*continued*) (CCPR/C/83/L/UZB and CCPR/C/UZB/2004/2)

1. *At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.*

List of issues (*continued*) (CCPR/C/83/L/UZB)

2. **Mr. Kälin**, while taking note of the delegation's replies to questions 19 and 20 on the list of issues, concerning terror suspects, suggested that the text of the relevant provisions should be submitted to the Committee. It was not clear whether an accused person had access to counsel in the pre-trial period or only once the case had been transferred to the court. Nor was it clear at what point the accused was informed of the charges against him.

3. With regard to freedom of expression (question 24 on the list of issues), the well-known case of journalist Ruslan Sharipov prompted him to wonder whether Mr. Sharipov had been convicted for reasons other than those listed in the judgement, since he had written articles on human rights. Mr. Sharipov apparently had written to the Uzbek authorities but had received no response. He would appreciate the delegation's views on those matters.

4. Since amendments had been made to the legislation governing the registration of political parties, it was strange that no opposition parties had been registered thus far and that applications from political parties were being rejected. How did the Government plan to address that situation?

5. **Mr. Khalil**, drawing attention to paragraph 274 of the report (CCPR/C/UZB/2004/2) and to article 24 of the Covenant, asked whether State support for poor families could help to break the vicious circle of poverty, which gave rise to child labour, a practice that in turn impeded school attendance and thus perpetuated poverty. He noted that the need for a labour force to pick cotton had prevented Uzbekistan from ratifying International Labour Organization (ILO) Convention No. 182 on child labour.

6. **Mr. Ando** wondered whether paragraph 155 of the report, on resettled persons, was Uzbekistan's response to the Committee's concluding observations on its initial report; if so, additional details were needed, for example, with regard to compensation for those persons.

7. **Mr. Saidov** (Uzbekistan) said that national human rights institutions, in line with the Vienna Declaration and Programme of Action, had been established. They included a parliamentary Ombudsman, the National Centre for Human Rights and a parliamentary mechanism for monitoring legislation. In addition, a network of non-governmental organizations, including those dealing with human rights, had been created.

8. The year before, Parliament had passed a new law widening the Ombudsman's powers and ensuring the independence of that office. The Ombudsman currently received over 5,000 citizen complaints annually, and the number was growing. In the past decade the National Centre for Human Rights had published over 100 international human rights treaties in Uzbek.

9. Parliament would undertake a review of the 10-year-old law on State secrecy with a view to ensuring transparency in the sphere of criminal justice.

10. Five political parties had taken part in the previous year's parliamentary elections. In addition a new system allowed independent candidates to stand for election, that was a significant development, since only 1 million persons out of a population of 26 million were members of the five political parties.

11. As to what constituted an "official" response, his delegation did not understand why some Committee members questioned the status of his replies, and then requested further "official" information on an issue. The delegation had been empowered by the Government to provide official replies, and every answer represented the Government's views. Perhaps owing to time constraints, his delegation was unable to give replies that were as comprehensive as the Committee might have wished, but in any case his delegation would provide detailed written replies to specific questions within one month.

12. Regarding the time table for the appointment of judges, he agreed that judges' terms should be increased 10 years. As to why judges were appointed

by the President, many countries had such a system in place. As to how one determined if a judge was conscientiously carrying out his professional duties, a Supreme Qualification Committee responsible to the President appraised judges' activities.

13. It should come as no surprise that visa procedures governing entry and exit had been established between Uzbekistan and its neighbours Tajikistan, Turkmenistan and Kyrgyzstan. Those were all sovereign States, and each State established its own entry and exit procedures.

14. Religious proselytization was prohibited under Uzbekistan's laws on freedom of conscience and religion, because Uzbeks professed 14 different religions, and an open appeal to adopt another faith could lead to inter-ethnic tensions. Moreover, over 80 per cent of the population professed Islam. There was also the risk of inciting religious extremism; the most recent terrorist acts in Uzbekistan had been perpetrated by extremists.

15. Regarding the Sharipov case, he said that the case had received wide publicity due to inadequate knowledge of Uzbekistan's criminal laws. Mr. Sharipov had been jailed not only for homosexuality, but also on charges of paedophilia and involving minors in antisocial activities. Foreign experts should have delved more deeply into the reasons for the arrest. The Government denied having ever received a letter from Mr. Sharipov.

16. As to why opposition parties had not been established, that was a question that should be asked of the public; even the President had encouraged their establishment.

17. Uzbekistan, where 40 per cent of the population under 18 years of age, had ratified most international child-protection conventions, including ILO conventions. While child labour was prohibited he acknowledged that some child labour persisted in agricultural activities.

18. The Government's written replies had provided a full account of the resettlement of populations from Surxondaryo. The mountainous region had been penetrated by Islamic extremists and military operations were ongoing there. The Government had resettled the local population to ensure their right to life. It was continuing to provide them with the necessities of life and some 1,300 resettled persons had received compensation.

19. **Mr. Sharafutdinov** (Uzbekistan), said that every year a presidential amnesty was decreed, giving tens of thousands of prisoners an opportunity to return to a normal life. Since independence the President had issued 15 amnesties, while since 1997 over 200,000 people had been pardoned. The amnesties applied to persons convicted of less serious crimes; to persons over 60 years of age, women and minors, and recently to foreigners; and to persons convicted of involvement in extremist religious groups, but who had mended their ways. Amnesties also involved reduction of sentences.

20. **Mr. Saidov** (Uzbekistan), correcting an earlier statement, said that a person convicted of terrorism had the right to legal counsel from the time it was announced that he was a suspect, or from the moment of his detention.

21. Corruption was indeed a problem. During a meeting in Parliament President Karimov had called for strict measures against any signs of corruption in Uzebekistan. The effectiveness of such an effort would depend greatly on how law enforcement officials, the Procurator and the judiciary battled corruption. Legislative measures were being prepared to combat malfeasance.

22. **Mr. Sharafutdinov** (Uzbekistan) said that the Government was looking into the experience of European countries and of the United States of America in rooting out corruption.

23. The Supreme Court had considered the question of admissibility of evidence obtained from a person deprived of legal counsel. In September 2004 it had ruled that any evidence obtained in violation of due process was inadmissible. Legislation was now being adopted on the basis of that decision.

24. **Mr. Sharafutdinov** (Uzbekistan) said that, the same procedural requirements applied to persons involved in terrorist activities as to those suspected of other crimes.

25. The lack of audio-visual equipment in detention facilities was regrettable. The Government, with the assistance of the United Nations Development Programme (UNDP), was equipping isolation cells and temporary detention cells with such technology so that the pre-trial process could be monitored. That would be

an important mechanism for determining when unlawful activities such as torture had been used against detainees.

26. **Mr. Gaziev** (Uzbekistan), referring to the registration of public associations, including political parties, said that he would use specific examples — that of the Muslim political organization and the Birlik political party. Both had applied to register with the Ministry of Justice, but their documents had been found in contravention of the laws. Accordingly, their applications had not been given consideration, although the organizations had the right to resubmit their documents; neither had done so. Regarding the International Crisis Group and the Erk Democratic Party, neither had ever applied for registration. The Government had refused to register the Open Society Institute and the Action Front, the latter on the ground that many of its activities and its use of funds had not been transparent.

27. **The Chairperson** noted the positive developments reflected in Uzbekistan's report. She stressed, however, that the Committee required additional information about violence against women, repression of homosexuality, torture and abuse of detainees and possible disguised forms of censorship of political parties and non-governmental organizations. Moreover, the requirement to obtain an exit visa in order to leave the country appeared to conflict with article 12 of the Covenant. The Committee would also welcome further details on Uzbekistan's anti-terrorist activities and its definition of a terrorist act.

28. **Mr. Saidov** (Uzbekistan) said that a very constructive dialogue had been held with the Committee and he regretted any areas of misunderstanding. His Government greatly valued the work of the Committee, which was very instructive for its national reports and for reviews of individual complaints under the Optional Protocol. His Government also greatly valued the more than 30 general comments provided by the Committee and looked forward to its concluding observations, which would form the basis for Uzbekistan's ongoing efforts to implement the provisions of the Covenant. His Government would undertake an uncompromising struggle against human rights violations, and it attached great importance to continuing the dialogue with the Committee.

29. *The delegation of Uzbekistan withdrew.*

30. *The meeting was suspended at 3.55 p.m. and resumed at 4.15 p.m.*

31. *Ms. Palm, Vice-Chairperson, took the Chair.*

Initial report of Greece (CCPR/C/83/L/GRC and CCPR/C/GRC/2004/1)

32. **Ms. Telalian** (Greece) introducing her country's report (CCPR/C/GRC/2004/1), said that immediately after Greece's ratification of the Covenant in 1997, the Greek courts had recognized its primacy over domestic law, and its provisions were increasingly being applied directly. Moreover, the Covenant had been invoked in order to fill gaps in the Constitution in the area of judicial protection.

33. Having recently been transformed from a country of emigration to one of immigration, Greece was seeking to establish a functional system of law which protected immigrants rights. While the rapid increase in the migrant population had not resulted in racial hatred, the authorities were seeking to educate the public on the principles of human rights and tolerance, and a series of relevant codes had been adopted to combat racism and intolerance in the media. In the previous month, Parliament had adopted a statute transposing into domestic law the relevant European Union directives for combating discrimination and had recently ratified Protocol No. 13 to the European Convention on the abolition of the death penalty. The statute ratifying that Protocol eliminated all references to the death penalty from the Military Penal Code.

34. New legislation had been adopted and initiatives taken to prevent and severely punish trafficking in human beings and, as a result, organized crime networks were already being dismantled and victims assisted.

35. New measures had also been adopted to incorporate respect for human rights into police ethics, to provide a legal framework for the use of firearms by police, and to enhance the effectiveness of police disciplinary regulations.

36. The Ministry of the Interior cooperated regularly with Roma representatives on measures to improve their living conditions and integrate them into Greek society. Programmes were being implemented to provide housing loans, transfer housing to them and construct housing, albeit of a temporary nature, at times.

37. The situation of the Muslim minority in Thrace had been further improved. Members of that minority enjoyed the same rights and protections under the law as the majority population and benefited from positive measures in the fields of education, religion and culture.

38. **The Chairperson** invited the delegation to address the list of issues (CCPR/C/83/L/GRC).

Constitutional and legal framework within which the Covenant is implemented (articles 2 and 4 of the Covenant)

39. **Mr. Kourakis** (Greece), referring to question 1, said that the Government had ratified all of the United Nations conventions on terrorism and would soon ratify the United Nations Convention against Transnational Organized Crime and its three additional protocols, and the Protocol amending the European Convention on the Suppression of Terrorism. The key Greek laws against terrorist acts was the 2001 law protecting citizens from punishable acts committed by criminal organizations, which had been amended in 2004 by a law introducing the European arrest warrant into the Greek legal system. Both laws fully respected the human rights of the accused and had been adopted by consensus by Parliament. He drew attention to article 40, paragraph 8, of the 2004 law, which stated that the offences listed would not constitute acts of terrorism if they were committed with a view to establishing, safeguarding or reinstating a democratic regime, carrying out an action for freedom or exercising fundamental freedoms or rights enshrined in the Constitution. Peaceful demonstrations would therefore never constitute terrorist acts. The 2001 law had been applied during the trials of persons accused of participating in terrorist organizations, particularly the group known as "17 November". According to the President of the National Commission for Human Rights, the law had been successful in suppressing that organization and had been implemented without violating the rights of the accused. Greek legislation to combat terrorism had therefore proved sufficient and effective.

40. Lastly, it was widely believed that counter-terrorism measures taken in connection with the 2004 Olympic Games had been appropriate and that law enforcement agencies had not violated citizens' human rights. The counter-terrorism measures adopted since 2001, therefore, had not affected the rights guaranteed under the Covenant.

41. **Ms. Telalian** (Greece) added that Greece was actively participating in the Council of Europe's efforts to elaborate principles for combating terrorism on the basis of human rights and due process.

42. **Mr. Gogos** (Greece), referring to question 2, said that the statement in paragraph 190 of the report was consistent with article 4 of the Covenant, which allowed States parties to adopt, in exceptional circumstances and under strict conditions, measures which in normal times would fall outside the ambit of permissible restrictions to the rights established in the Covenant. Article 48 of the Constitution subjected derogation measures and their legal consequences to a series of effective safeguards and explicitly defined the prerequisites for declaring a state of siege: all constitutional provisions prohibiting discrimination continued to apply and core individual rights could not be violated under any circumstances. Since the 1986 constitutional revision, a state of siege could no longer be declared in the event of a serious disturbance or obvious threat to public order and security owing to internal dangers. Moreover, Parliament must approve a declaration of a state of siege and decide which rights would be derogated from, and it played a central role in approving measures adopted by the executive branch under the state of siege. A state of siege could not exceed 15 days without another decision by Parliament and was, moreover, intended, to restore the functioning of constitutional institutions as soon as possible. In addition, since the Covenant prevailed over domestic law, any rule or decision contrary to the Constitution or to article 4 of the Covenant would be inapplicable.

43. Lastly, a state of siege had not been applied in Greece under the 1974 Constitution.

Prohibition of discrimination and right to an effective remedy (article 2 of the Covenant)

44. **Ms. Telalian** (Greece), referring to question 3, said that while the Constitution indeed reserved the enjoyment of certain civil rights to Greek citizens, it in no way prohibited the enjoyment of civil rights by foreigners, but instead referred the relevant matters to the legislators, who were bound by constitutional provisions that made no distinctions as to citizenship. Such provisions included article 2, on the protection of human dignity, and article 5, paragraph 2, which

guaranteed full protection of life, honour and liberty to all persons living in Greek territory, irrespective of nationality, race, language, religion or political belief.

45. The legislators were also required to fully consider and implement international human rights treaties ratified by Greece. Such treaties prevailed over national legislation and could be directly invoked in the courts. Consequently, the legislators could not differentiate on the basis of citizenship, as international human rights treaties did not make a distinction between nationals and foreigners. In practice, all foreigners were free to establish associations and exercise their freedom to peaceful assembly.

46. The principle of non-discrimination was further reflected in article 4 of the Civil Code. A comparative constitutional law survey had shown that many European constitutions reserved the same constitutional rights to their citizens as the Greek Constitution did to its citizens. However, the fact that for historical or other reasons some rights were reserved to nationals did not mean that non-nationals, in law and practice, were denied those rights. Lastly, she stressed that neither non-governmental organizations (NGOs), constitutional lawyers nor any other members of civil society had raised that issue during the 2001 constitutional revision.

Gender equality and prohibition of discrimination (articles 2, 3 and 26 of the Covenant)

47. **Ms. Grigoriou** (Greece), referring to question 4, said that a number of steps had been taken in connection with Greece's national priorities and core activities on gender equality for the period 2004-2008, which took account of the recommendations made by the Committee on the Elimination of Discrimination against Women (CEDAW), particularly those concerning domestic violence. Though domestic violence was already punishable under existing laws, specific legislation was clearly needed, and had been called for by 11 female members of Parliament in late 2004. A working committee had been established with a view to drafting a bill defining domestic violence as a specific offence. One of the Committee's concerns was to provide financial support for victims who were prevented from leaving their homes purely for economic reasons. Steps had also been taken to educate victims and raise public awareness. The General Secretariat for Gender Equality continued to work with NGOs and had conducted information campaigns, set up consultation centres, and organized conferences for specialists and members of key professions at the local and regional levels. In addition, the Research Centre on Equality Matters offered victims psychological and legal support and employment advice in five major towns. The Greek branch of the European women's network had also set up a free hotline covering the whole country. Lastly, the General Secretariat, in conjunction with the relevant municipality, had opened accommodation centres in Athens and was doing the same in Thessaloniki. Non-governmental organizations provided a similar service in three other major towns in cooperation with the General Secretariat.

Right to life, and prohibition of torture and cruel, inhuman or degrading treatment (articles 6 and 7 of the Covenant)

48. **Mr. Stavrou** (Greece), referring to question 5, said that a series of measures had been adopted to ensure full respect for the right to life, prevent and punish ill-treatment and make police officers more accountable. He referred to the 2003 law entitled "Bearing and use of firearms by the police forces, relevant training and other provisions". In 2004 Greece had adopted a code of police ethics containing specific rules and guidelines on respecting human rights and protecting vulnerable groups. Under the 1996 Disciplinary Law for police personnel, sworn administrative inquiries were ordered for complaints of misconduct by police officers, and measures were being taken to speed up inquiries.

49. Any delays that did occur did not point to cover-ups or impunity, but were due to strict observance of procedural rules. The police were subject to both judicial and administrative control. The Ombudsman was competent to monitor the legality of disciplinary proceedings and make recommendations where necessary. The Ministry of Public Order had reacted immediately to a recent Ombudsman's report on ill-treatment by the police and had set up a committee to review the current law. Claims that law enforcement officials enjoyed impunity were therefore unfounded and complaints of ill-treatment were isolated cases.

50. As for legal remedies, under the Code of Penal Procedure, victims of alleged excessive use of force by police could claim damages as a civil party in criminal proceedings and, under the Introductory Law to the Civil Code, the State must compensate any person

affected by unlawful acts or omissions committed by State agents.

51. Lastly, he reiterated Greece's determination to prevent the development of racism and xenophobia in the police force.

Prohibition of slavery or forced or compulsory labour (articles 3, 7, 8 and 24 of the Covenant)

52. **Ms. Despotopoulou** (Greece), referring to question 6, said that between January and mid-October 2004, the police had investigated 50 cases under anti-trafficking legislation. A total of 225 persons had been accused. Of the 156 victims, 34 had received assistance and protection from the State and NGOs and 17 had seen their expulsion suspended. She stressed that most of the victims were residing legally in the country and therefore did not wish to be placed under State protection. The Government had adopted a national action plan on trafficking and had set up an Inter-Ministerial Coordinating Committee to facilitate communication within the Government and between the Government, NGOs and international partners. The role of the Committee was to ensure that traffickers were prosecuted, refer victims to shelters and protect them from deportation, and raise public awareness. Measures taken to protect victims included the establishment of a Task Force for Combating Human Trafficking, special anti-trafficking squads and international anti-trafficking networks; additional training for judges and public prosecutors and the assignment of special prosecutors; a hotline and victim services, including free legal advice and repatriation programmes for foreign victims; legislation granting residence permits to victims; extra funding for NGOs; agreements with neighbouring countries, including a bilateral agreement with Albania; and a national database.

53. As traffickers adjusted to stricter legislation, recognizing and referring victims would continue to be a challenge. As noted recently by the Special Representative on Combating Trafficking in Human Beings of the Organization for Security and Cooperation in Europe (OSCE), shelters sat empty across Europe. There was, however, no indication that trafficking had decreased. Moreover, a growing number of those who fell victim to traffickers had entered the country legally.

54. **Mr. Stavrou** (Greece), referring to question 3, said that organized networks that exploited Albanian children in Greece had been dismantled and Albanian nationals had been arrested for bringing minors from poor families to work in Greece with their parents' consent. The minors had been forced to sell handkerchiefs at several locations in Athens and the perpetrators had pocketed the illegal profits. Following a house search, six young boys ranging from 10 to 13 years of age had been identified as victims and transferred to a youth hostel run by the non-governmental organization Doctors of the World. They had since been repatriated.

55. While 352 child beggars had been taken to police stations in 2000, that figure had dropped to 12 in 2004. Most of them had been sent out to beg by illegal-immigrant parents who were having difficulty obtaining work. The regularization of undocumented migrants had all but eliminated the problem.

56. **Mr. Kourakis** (Greece), referring to question 8, said that the prison population had nearly tripled in the past 25 years and now stood at slightly over 8,700. There were only 4,000 cells, however, owing to the closure of some prisons in old castles in Thessaloníki and on Égina island in the 1980s. An ambitious project to construct six new facilities would increase prison capacity by about 45 per cent by the end of 2007.

57. About 50 per cent of detainees in Greece were aliens. Arrangements were being finalized for the construction of a new prison in Albania, with financing from Greece, for Albanian citizens currently detained in Greece. Similar negotiations were under way with the Governments of Bulgaria, Romania and Serbia and Montenegro — prisoners would be transferred back to their countries of origin only with their consent and in accordance with the relevant international and European conventions. Among the modern prisons being constructed in the greater Athens area were the Thiva facility for the treatment of addicts, which offered programmes for the detoxification of prisoners and their reintegration into society, and the Avlona youth detention centre, featuring a school with a library, computers, a chemistry laboratory and a sports area.

58. Alternative measures such as community service were also easing the problem of overcrowding in the prisons. About 68 organizations were cooperating with judicial authorities to implement a community service

programme for persons convicted of minor offences that carried no more than a three-year prison sentence. Increasingly, prisoners were being separated not only by status, gender and age but also according to the offence committed, the prison term imposed and specific problems such as addiction. Separation was already being practised in 14 detention centres and was gradually being extended to another 10 centres.

59. **Mr. Stavrakakis** (Greece) said that greater attention was being paid to hygienic conditions in existing detention centres for aliens awaiting deportation, and a new detention facility was nearing completion in the sensitive Attica region. Added protection was provided by legislation that imposed a three-month limit on the detention of aliens awaiting deportation and allowed them to contest detention orders in the first-instance administrative court. In cases where the administrative expulsion of an alien became impossible, the person concerned could stay in the country temporarily, subject to certain restrictions. Moreover, the regularization of alien documentation was helping to reduce congestion in police holding facilities and improve detention conditions.

60. **Ms. Despotopoulou** (Greece), referring to question 10, said that reforms in psychiatric services had received a great deal of attention in the media and from civil society organizations and that they marked a watershed in the attitude of Greek society towards mental illness. Based on the recommendations of the World Health Organization and the international conventions ratified by Greece, the national programme known as "Psychargos" was in its second phase of implementation. Under the programme, poor psychiatric hospitals (in Petra Olybou, Khaniá and Corfu) would be shut down and replaced by community structures; three other psychiatric hospitals in Athens and Thessaloníki would be shut down by 2015. The programme also provided for better quality service and living conditions in mental health hospitals and additional training for senior and new staff, with emphasis on policy and legislation, inpatient care, continued care, rehabilitation, day and residential services, vocational programmes and modernizing attitudes about mental health care.

61. Procedures had been set up to protect patients against unnecessary or involuntary admissions, treatment or maltreatment, and the rights of persons with mental disorders were monitored by a number of special bodies, including the Special Committee for the Protection of the Rights of Persons with Mental Disorders. Established in 1963, the Mental Health Department of the Ministry of Health and Social Solidarity enforced instructions of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment and had submitted reports and recommendations on its three visits to psychiatric hospitals to the Ministry of Health and Social Solidarity. National policy on mental health services was formulated with input from mental health service users and providers, patients' families and the community. The Ministry of Health and Social Solidarity had instructed general hospitals to increase the number of beds available for acute mental health care, and, with the development of community mental health services, there were fewer negative experiences in mental hospitals. Maltreatment in a hospital was investigated by its Board of Directors and, if necessary, referred for further action to a Disciplinary Council. Where criminal liability was involved, cases were turned over to the district attorney for prosecution.

Imprisonment for failure to fulfil a contractual obligation (article 11 of the Covenant)

62. **Mr. Kourakis** (Greece), referring to question 11, said that 28 persons were currently detained for failure to pay off their contractual debts. In the past decade, that number had fluctuated between 7 and 19 and, at all times, had represented less than 1 per cent of the total number of prisoners. Nonetheless, in 1994, a well-known professor of constitutional law had found the imprisonment of debtors to be contrary to the fundamental principles of the Greek Constitution, a feeling which had grown and intensified with the ratification of the Covenant by Greece in 1997. In 2004, the Supreme Administrative Court had questioned the practice of personal detention as a means of resolving debt issues. The Supreme Civil Court had declared, in 1997, that detention of merchants for commercial debt was permissible only if they wilfully avoided their contractual obligations. That position was believed to be fully compatible with article 11 of the Covenant.

Right to a fair trial (article 14 of the Covenant)

63. **Mr. Kourakis** (Greece), referring to question 12, said that the final text of Law No. 3068/2002 actually incorporated a number of the amendments proposed by the Greek National Commission for Human Rights, in

particular with regard to short deadlines during proceedings, in accordance with article 3, paragraph 1, and the imposition of additional fines against the tax department for unreasonable delays in implementing the procedures set forth in article 3, paragraph 3. Other suggestions, however, had not been adopted in the belief that certain problems would be more effectively resolved by jurisprudence over time. Referring to question 13, he said that the European Commission against Racism and Intolerance (ECRI) had characterized the new Greek law on legal aid as a major advance. The new provisions not only provided significant legal aid to low-income persons, regardless of their country's principle of reciprocity, but also focused particular attention on providing assistance to victims of torture and other offences against human dignity. Legal aid was guaranteed to migrants, asylum-seekers and other non-European Union nationals summoned to appear before an investigating judge or the penal court of first or second instance, or who were in need of psychiatric services or who sought a postponement of the penal process for an offence in flagrante. Defenders from non-governmental organizations, such as the Greek Council for Refugees, provided services free of charge. NGO representatives also participated in the work of the Appeals Board which reviewed asylum applications.

64. **The Chairperson** invited Committee members to pose additional questions.

65. **Ms. Wedgwood** wondered whether the State party's legislative response to terrorism was so broad that, in the name of establishing or reinstating democracy, it exceeded the definition of terrorism established by the High-Level Panel on Threats, Challenges and Change (deliberate taking of an innocent civilian life). Referring the State party to the Committee's general comment No. 29, she asked whether terrorist acts, as well as coups d'état, were considered exceptions to Greek legislation prohibiting the imposition of a state of emergency to quell domestic disturbances.

66. More explicit legislation about the primacy of the Covenant in the Greek legal system might help to guarantee that the Covenant was observed by judges at all levels, even those in the most remote rural areas. She welcomed the changes in Greek law recognizing the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and asked whether they were strictly observed (i.e., whether recourse to force was reserved exclusively for serious threats to human life). Did Greece have a civilian review board or similar entity to counterbalance police officers' refusal to incriminate one another? Referring to the Helsinki Watch report entitled "Cleaning Operations: Excluding Roma in Greece", she enquired about the seeming impotence of the Greek judicial system to discipline police officers for abuses of members of the Roma community. (Only one officer had been convicted — for shooting an unarmed man lying face down — and his sentence had been suspended). Had there been any attempt to assign Roma monitors to police departments as a means of controlling the excessive use of force?

67. She commended the State party for allowing members of the International Committee of the Red Cross to visit prisons; opening up police detention centres as well would be another useful step. She enquired about interim measures to ease prison overcrowding pending the construction of new facilities. Were steps being taken to mitigate the hardship of detainees awaiting deportation in antiquated facilities?

68. Lastly, she questioned the appropriateness of imprisoning debtors in an age when technology made it possible to identify and attach a person's assets. As for the delegation's assertion that, in practice, judges respected the provisions of article 11 of the Covenant, she stressed that Greek law must be sufficiently transparent to ensure that those principles were observed by all magistrates without fail, and to prevent creditors from abusing the naivety of debtors by threatening them with imprisonment.

The meeting rose at 6.05 p.m.